

• • R E M A R K S • •

The Official Action of July 17, 2002 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

By the present amendment, claims 1-3 have been changed to recite "terminal ends" of each of said first, second and third elastic members. This change has been made to more clearly describe that it is the terminal ends and not merely arbitrary end portions of the elastic members that are excluded from extending into the bonding zones.

In addition, the terms "first waist region" and "second waist region" have been changed in each of claims 1-4 to "front waist region" and "rear waist region."

Also by the present amendment, claims 1-3 have been changed to include the recitation that the opposite terminal ends of the first, second and third elastic members are not bonded to the front and rear waist regions in the bonding zones.

Support for the changes to the claims is believed to be found in the original claim language. That is, the changes presented herein for the claims are intended to more particularly or clearly describe applicants' invention. Otherwise, support for the changes to the claims can readily be found in the drawings.

Entry of the changes to the claims is respectfully requested.

Claims 1-4 are pending in this application.

Claims 1 and 3 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,817,087 to Takabayashi.

Claims 3 and 4 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Takabayashi.

For the reasons set forth below, it is submitted that all of applicants' pending claims are allowable over Takabayashi for the reasons set forth below and therefore, each of the outstanding rejections of the claims should properly be withdrawn.

Favorable reconsideration by the Examiner is respectfully requested.

The Examiner has relied upon Takabayashi as depicting:

...a shorts type disposable diaper (FIG. 1, 1), comprising two liquid permeable waist sheets, back and top (10 and 30 combined), with two elastic members (11 and 21) located at the waist and along the opening for legs, respectively.

As depicted in Figs. 1, 2 and 4, Takabayashi provides for the elastic members 11, 21 and 31 to extend into the joint portions 8 at which the lateral side edges 6a and 6b of the front waist body portion 6 and the lateral side edges 7a and 7b of the rear waist body portion 7 of the diaper are "joined and sealed together" i.e., bonded.

Applicants' pending claims 1-3 exclude the first, second and third elastic members from extending into the bonding zones in which the lateral or transversely opposite sides of the front and rear waist regions are bonded together.

Accordingly, Takabayashi does not anticipate applicants' claimed invention.

In rejecting claims 3 and 4, the Examiner has taken the position that:

...it would have been obvious....to modify the disposable undergarment of Takabayashi, by adding a third elastic member below and in parallel to the first one (11) in order to improve the efficiency of the product.

The Examiner's proposed modification of Takabayashi does not address or overcome the deficiencies associated with this reference that are noted above.

For the reasons set forth above, it is submitted that Takabayashi cannot be relied upon as either anticipating or rendering applicants' claimed invention obvious.

Based upon the above distinctions between Takabayashi and the present invention, and the overall teachings of Takabayashi, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon Takabayashi as required under 35 U.S.C. §102 as anticipating applicants' claimed invention.

Moreover, the Examiner cannot rely upon Takabayashi as required under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicants' claimed invention.

It is, therefore, submitted that any reliance upon Takabayashi would be improper inasmuch as this reference does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over Takabayashi and the outstanding prior art rejections of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

The prior art cited, but not relied upon by the Examiner on page 3 of the Official Action has been noted. This prior art is not deemed to be particularly relevant to applicants' claimed invention.

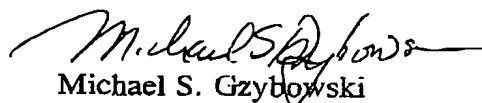
It is noted that U.S. Patent No. 5,628,738 to Suekane neither teaches one way or the other as to if elastic member 13 extends into the bonding zones of the front and rear waist regions. Fig. 1 appears to depict the elastic member 13 in the rear waist region as extending into the bonding zones, whereas the same figure seems to depict the elastic member 13 as not even being "immediately" near the bonding zones. This reference is believed to be inconclusive or at least non-enabling as regards the relationship of the terminal ends of the elastic members 13 and the bonding zones of the front and rear waist regions.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remains outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 02-0385 and please credit any excess fees to such deposit account.

Respectfully submitted,



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Marked-Up Copy of the Claims
As Amended on October 16, 2002

1. (Twice Amended) A disposable pull-on undergarment comprising:

[first] front and [second] rear waist regions opposed to each other;

a crotch region extending between said [first] front and [second] rear waist regions;

bonding zones connecting said [first] front and [second] rear waist regions to one another, and extending along transversely opposite side edge portions of said [first] front and [second] rear waist regions so as to define a waist-opening and a pair of leg-openings;

first elastic members bonded under tension to a peripheral edge of the waist-opening and being stretchable circumferentially of said first and second waist regions; and

second elastic members bonded under tension to peripheral edges of the leg-openings and being stretchable circumferentially of said leg-openings,

said first elastic members having pairs of first opposed terminal ends and intermediate portions extending between said first opposite terminal ends, said first opposite terminal ends being positioned and fixed at first zones defined immediately inside said bonding zones in a circumferential direction of said [waist-opening.] waist-opening so that the opposite terminal ends of the first elastic members are not bonded to the front and rear waist regions in the bonding zones.

2. (Twice Amended) The disposable pull-on undergarment according to Claim 1, wherein said second elastic members each have pairs of second opposite terminal ends and second intermediate portions extending between said second opposite terminal ends, and said second opposite terminal ends being positioned and fixed at second zones defined immediately inside said bonding zones in respective circumferential directions of said [leg-openings.] leg-opening so that the opposite terminal ends of the second elastic members are not bonded to the front and rear waist regions in the bonding zones.

3. (Twice Amended) The disposable pull-on undergarment according to Claim 1, further comprising at least one third elastic member laying below said first elastic members and being stretchable in said circumferential direction of said waist-opening, said at least one third elastic member being attached under tension to at least one of said [first] front and [second] rear waist regions between the peripheral edge of said waist-opening and said peripheral edges of said leg-openings, each of said at least one third elastic members [has] having a pair of third opposite terminal ends and a third intermediate portion extending between said third opposite terminal ends, said third opposite terminal ends being positioned and fixed at third zones defined immediately inside said bonding zones in the circumferential direction of said [waist-opening.] waist-opening so that the opposite terminal ends of the at least one third elastic member are not bonded to the front and rear waist regions in the bonding zones.

4. (Twice Amended) The disposable pull-on undergarment according to Claim 1, wherein a peel strength between the [first] front and [second] rear waist regions in said bonding zones is in a range of about 4 to about 40 N with respect to a 25 mm longitudinal dimension of said bonding zone.